

### **REMARKS**

This Amendment is in response to the Office Action dated January 11, 2006. Claims 1-15 are pending in the present Application. Claims 1-15 have been rejected. Claims 3, 6, 8, 9, 11, 13, and 14 have been amended to address objections and §101 and §112 rejections, as well as to correct typographical and grammatical errors, in view of the Examiner's comments, in order to place the claims in condition for allowance. Applicant respectfully submits that no new matter has been presented. Claims 1-15 remain pending. For the reasons set forth more fully below, Applicant respectfully submits that the claims as presented are allowable. Consequently, reconsideration, allowance, and passage to issue are respectfully requested.

#### **Double Patenting - Terminal Disclaimer**

The Examiner has stated:

**Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, and 18 of copending Application No. 09/903937 (hereinafter '937). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following observations.**

**Following is some examples of conflicting claims, notably claims 5, 10, 15:**

...

In response, Applicant has included a Terminal Disclaimer.

#### **Claim Rejections - 35 U.S.C. §101**

The Examiner has stated:

**Claims 6 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

**Claim 6 recites a system for compiling a computer program, and a method recited as 'the method' without any connection whatsoever with the system. Because of the non-connection, due to this abrupt introduction of 'the method' which is recited as responsible for performing all the limitation steps of this system as claimed on the outset, one skill in the art would not be appraised on**

**what this system consists of in terms of tangible components, in order for all the limitations in the claim to be implemented to achieve a result...**

**Claim 11 recites a computer readable medium for minimizing the cycle in a program compiling, and a method recited as 'the method' for performing the steps in the rest of the claim. This deficiency is similar to that set forth above...**

**Claims 7-10, and 12-15 are also rejected for not remedying the deficiency of the base claims.**

In response, with regard to claim 6, the preamble has been amended to provide tangible components (i.e., a computer readable medium and computer system) to connect the method with the system. Specifically, claim 6 has been amended to clarify that the system is a computer-implemented system containing a computer readable medium containing program instructions that when executed by a computer system cause the computer system to execute the method. Furthermore, a portion of the preamble, "wherein each of the directories includes a code file," has been moved down into the steps of claim 1.

With regard to claim 11, the preamble has been amended to provide a tangible component (i.e., a computer system) to connect the method with the computer readable medium. Specifically, claim 11 has been amended to clarify that the computer readable medium contains program instructions which when executed by a computer system cause the computer system to execute the method. Furthermore, a portion of the preamble, "wherein each of the directories includes a code file," has been moved down into the steps of claim 11. Applicant respectfully submits that claims 6 and 11 are directed to statutory subject matter.

Dependent claims 7-10, and 12-15 depend from claims 6 and 11. Accordingly, Applicant respectfully submits that claims 7-10, and 12-15 overcome the objections for at least the same reasons as claim 6 and 11.

### **Claim Objections**

The Examiner has stated:

**Claims 3, 8, 9, 13 and 14 are objected to because of the following informalities:**

- a. Claims 3, 8 and 13 recite 'changes are provided (c) via a ... update mechanism' (2<sup>nd</sup> line respectively). There is no use of the "(c)" in this case unless this actually set to mean: as set in step (c) of claim 6 or claim 11.**
- b. Claims 9 and 14 recite 'the providing an update mechanism step (c)' should be corrected to better recite this as – the providing of an update mechanism in (c) – as understood from interpreting the claim.**  
**Appropriate correction is required.**

In response, claims 3, 8, 9, 13, and 14 have been amended in accordance with the Examiner's instructions/suggestions to address the above-referenced objections. Specifically, with regard to claims 3, 8, and 13, the phrase "in step" have been inserted before the term "(c)," and the word "of" has been inserted before the phrase "an update." With regard to claims 9 and 14, the word "of" has been inserted before the phrase "an update," and the word "in" has been inserted before the phrase "step (c)."

### **Claim Rejections - 35 U.S.C. §112**

The Examiner has stated:

**Claims 6 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claims 6 and 11 recite the limitation "the method" in line 3 of each claim respectively. There is insufficient antecedent basis for this limitation in the claim.**

In response, claims 6 and 11 have been amended to address the above-referenced rejections. Specifically, the phrase "the method" now reads "a method." Applicant respectfully submits that claims 6 and 11, as amended, are now definite under 35 U.S.C. 112, second paragraph.

**Allowable Subject Matter**

The Examiner has stated:

**The allowable subject matter over the prior art in view of the Applicant's arguments from the Appeal Brief can be listed as follows pending the resolving of the above rejections:**

**Mainly step a, step c and step d of claim 1, which amount to: directories containing a code file, a master array of directories listing dependencies of the directories; associated dependency changes updated to the master array; and using the updated master array to compile the code files in the directories in ordered manner based on the dependencies of said directories.**

**The independent claims with similar allowable subject matter would otherwise be allowable pending the above resolution, one of which is the timely filing of a Terminal Disclaimer such as mentioned by Applicant in the Appeal Brief of 10/17/05.**

Applicant notes with appreciation that the claims are allowable pending resolution of the objections and rejections. As discussed above, Applicant respectfully submits that the claims have been amended appropriately to put them in condition for allowance.

**Conclusion**

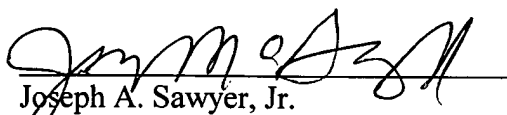
In view of the foregoing, Applicant submits that claims 1-15 are in condition for allowance. Applicant, therefore, respectfully requests reconsideration and allowance of the claims as now presented.

Applicant's attorney believes that this application is in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

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Date

  
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